



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/894,246	05/22/1998	MICHEL PERRICAUDET	EX95001-US	8790

29693 7590 06/04/2002

WILEY, REIN & FIELDING, LLP
ATTN: PATENT ADMINISTRATION
1776 K. STREET N.W.
WASHINGTON, DC 20006

EXAMINER

CHEN, SHIN LIN

ART UNIT	PAPER NUMBER
----------	--------------

1632

DATE MAILED: 06/04/2002

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.
08/894,246

Applicant(s)
Perricaudet et al.

Examiner
Shin-Lin Chen

Art Unit
1633



– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

THE REPLY FILED May 22, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Dec 31, 2001. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: The phrase "selected from the group..." in claim 67 raise new 112 second issue. The phrae is improper Markush language. The phrase "gp19k protein contains... mutations" in claim 82 and 107 raises issue of new matter. The

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Applicants arguments regarding 35 U.S.C. 112 second paragraph are for the newly added claims which are not entered, therefore those arguments are not relevant. Applicants arguments regarding 35 U.S.C. 112 first rejection
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: None
- Claim(s) objected to: None
- Claim(s) rejected: 26-64
- Claim(s) withdrawn from consideration: _____
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: (continue from "NOTE" above) specification fails to provide sufficient description for
such.

Art Unit: 1633

DETAILED ACTION

Continued from Advisory Action:

refer to previous response to Official actions (Paper No. 13 and 16). Those arguments have been addressed in the Official actions mailed 12-26-00 (Paper No. 16) and 7-30-01 (Paper No. 19).

Thus, the claims remain rejected for the reasons of record.

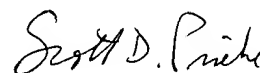
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shin-Lin Chen whose telephone number is (703) 305-1678. The examiner can normally be reached on Monday to Friday from 9 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Priebe can be reached on (703) 308-7310. The fax phone number for this group is (703) 308-4242.

Questions of formal matters can be directed to the patent analyst, Patsy Zimmerman, whose telephone number is (703) 305-2758.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-0196.

Shin-Lin Chen, Ph.D.



SCOTT D. PRIEBE, PH.D
PRIMARY EXAMINER